

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CHRISTINE A. SMITH, on behalf of
herself and all others similarly situated

Plaintiff,

v.

Civil Action No. 1:08-cv-11942-GAO

MFS INVESTMENT MANAGEMENT,
MASSACHUSETTS FINANCIAL SERVICES
CO. and MFS FUND DISTRIBUTORS, INC.,

Defendants.

MOTION TO DISMISS THE CLASS ACTION COMPLAINT

Pursuant to Rules 9(b) and 12(b)(6) of the Federal Rules of Civil Procedure, defendants Massachusetts Financial Services Company¹ and MFS Fund Distributors, Inc., (collectively, “MFS”) hereby move to dismiss Plaintiff’s Class Action Complaint in its entirety and with prejudice. In support of this motion, MFS respectfully refers the Court to the accompanying Memorandum of Law In Support of Defendants’ Motion to Dismiss the Class Action Complaint and the authorities cited therein.

WHEREFORE, MFS respectfully requests that the Court issue an order dismissing the complaint in its entirety and with prejudice, and grant such other and further relief that the Court deems just and proper.

REQUEST FOR ORAL ARGUMENT

Pursuant to Local Rule 7.1(D), MFS requests oral argument on the Motion to Dismiss the Class Action Complaint.

¹ MFS Investment Management, which the complaint names as a defendant, is a trade name for Massachusetts Financial Services Company and is not a separate legal entity.

Respectfully submitted,

MASSACHUSETTS FINANCIAL
SERVICES COMPANY and MFS FUND
DISTRIBUTORS, INC.

By their attorneys,

/s/ James S. Dittmar
James S. Dittmar BBO # 126320
Katherine G. McKenney BBO # 660621
GOODWIN PROCTER LLP
Exchange Place
53 State Street
Boston, MA 02109
Telephone: (617) 570-1000
Facsimile: (617) 227-8591
jdittmar@goodwinprocter.com
kmckenney@goodwinprocter.com

Michael K. Isenman (*pro hac vice*)
GOODWIN PROCTER LLP
901 New York Avenue, NW
Washington, DC 20001
Telephone: (202) 346-4000
Facsimile: (202) 346-4444
misenman@goodwinprocter.com

Dated: February 12, 2009

LOCAL RULE 7.1 CERTIFICATION

I, Michael K. Isenman, counsel for defendants in the above-captioned action, hereby certify that I have conferred in good faith with counsel for plaintiff on this matter, concerning this motion to dismiss, and was not able to resolve or narrow the issues therein.

/s/ Michael K. Isenman

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on February 12, 2009.

/s/ James S. Dittmar